יתר מיכן כתב לגרש את אשתו כולי –

More than this; he wrote to divorce his wife, etc.

Overview

The משנה first taught that one cannot use a גט, which the סופרים wrote for practice. The משנה continues 'יתר על כן', there is even a greater novelty, that if a person wrote a גט לשמה for his wife and then another couple with the same names wanted to use it for their divorce it is also פסול. From the syntax of the משנה it seems that from the first rule we cannot derive the second rule however from the second rule we can derive that the first case is surely פסול.[1]

בגמרא מפרש[2] לא זה שנכתב שלא לשם גירושין[3] אלא אף זה שנכתב לשם גירושין[4] -

The גמרא explains the יתר מיכן to mean, that **not** only is it פסול in **this** first case **where it was not written for the purpose of גירושין** at all, **but even in this** second case **where it was written לשם גירושין,** nevertheless it is still פסול -

להכי תנא יתר מיכן –

Therefore the משנה stated 'יתר מיכן', because the פסול in the second case is a greater novelty than the פסול in the first case.

תוספות asks:

ואם תאמר והיכי שייך למיתני הכא יתר מיכן[5] -

And if you will say; but how is it justified to teach here יתר מיכן -

כיון דמהאי נמי לא הוה שמעינן בקמייתא דפסול -

Since that from this (second) case **as well we could not have known that the first case is** (surely) **פסול.** תוספות explains -

דהוה אמינא דהאי הוא דכי איכתיב לשם רחל לא הדר איכתיב לשם לאה[6] -

For I could have said that here in the second case **since it was written for רחל** (one woman) **it cannot be** considered **written for לאה** (another woman) -

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[1] It is יתר מיכן; a greater חידוש in the second case that it is פסול, implying that knowing this we can infer that the first case is surely פסול, for otherwise why is the second case 'יתר מיכן'.

[2] On the עמוד ב'.

[3] The סופרים merely wrote it for writing practice, there was no intent for גירושין at all .

[4] The first husband wrote it in order to divorce his wife.

[5] 'יתר מיכן' implies that this (second) case is a greater חידוש than the first case; meaning that if we would only know the first case is פסול, we could not have concluded that the second case is also פסול; however if we know that the second case is פסול then certainly we know that the first case is פסול. תוספות will argue that this is not so!

[6] The words רחל לאה are a bit misleading here, since in this (second) case we are discussing where the second couple has the same names as the first couple; rather תוספות means that they are separate and different women, so he uses the frequently utilized terms of רחל ולאה.

אבל סופרים להתלמד עשויים הכי נמי דכשר דהכי אמרינן בפרק קמא דעירובין[7] (דף יג,א) -

However the practicing scribes who are not writing for any specific woman, **indeed it may be כשר, for this is what** the גמרא **states in the first פרק of** מסכת **עירובין -**

דאף על גב דאין מגילתה כשרה להשקות בה סוטה אחרת -

That even though the rule would be **that a מגילת** סוטה which was written for one woman **is not כשר to** be used **for another סוטה** to make her drink the מים המאררים, nevertheless we could say regarding –

תורה אף על גב דלהתלמד עבידא[8] הכי נמי דמוחקין[9] –

A ספר **תורה that even though it was written להתלמד, indeed it can be** used as a מגילת סוטה **to erase it** in the מים המאררים.

תוספות answers and distinguishes between the להתלמד of the סופרים and the להתלמד of the ס"ת:

ויש לומר דלהתלמד דהכא לא חשיב לשמה כמו להתלמד דספר תורה[10] -

And one can say that the להתלמד here by the סופרים with a גט **is not considered** that much **לשמה as the להתלמד of a ס"ת** by a סוטה where it is considered more לשמה -

דסופרים העשויים להתלמד אין כותבין כלל לשם הכשר דגט -

For regarding **the סופרים that are practicing to write, they do not write at all for the intent of a גט כשר;** they are merely practicing -

אבל ספר תורה כותב בסתם לכל מה שצריך לעשות בו[11] -

However the one who writes a ס"ת presumably his intent is **for whatever is needed to do with** the ס"ת -

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[7] The גמרא there is distinguishing between a case where he wrote a מגילת סוטה for one woman whether it is כשר for another woman, and a case where he used a ס"ת for the מגילת סוטה. He erased the פרשת סוטה in a ס"ת for a סוטה. The גמרא states that if we would only know the first case is פסול, we could not conclude that the second case (of ס"ת) is פסול (even though in the first case it was written לשם סוטה, more than the second case).

[8] See previous תוס' ד"ה כל TIE footnote # 3.

[9] This is the view of ר"מ there. There is an advantage in a ס"ת over a מגילה which was written for another סוטה, for there it was certainly not written for this second סוטה (only for the first), but a ס"ת which is written סתם so any woman can use it. The same reasoning should apply here by גט, that it may be preferable to use the גט of the סופרים מקרין which was not designated for any specific woman, than to use a גט which was designated for another woman. Therefore there is a חידוש in each case of the משנה; in the first over the second as just explained and in the second over the first as the גמרא explained. The question therefore remains why do we say 'יתר מיכן' concerning the second case when the first case is also a חידוש relative to the second case?!

[10] According to this view (that סופרים מקרין is less לשמה than ס"ת) תוספות previous question ושמע בד"ה (see there footnote # 4), is answered.

[11] The one who is writing a ס"ת is not merely practicing, but rather he wants it to be a proper ס"ת than can be used for various purposes (perhaps even including using it for מגילת סוטה). Therefore regarding סוטה we can say that even if we know that one cannot use the מגילה of another סוטה (since it is written שלא לשמה), nevertheless I may think that one can use a ס"ת for a מגילת סוטה (since it is not written for practice, but rather with the intent that it should be used for whatever is necessary), however by גט once we know that a גט which was written לשמה for one woman is פסול to be used for another woman, we know for certain that a גט which was written for practice is certainly פסול.

ומיהו[12] אפילו הכי כריתות של ספר תורה אין כשר לגרש בו כדפירשנו לעיל (דף כ,א)[13] -

But nevertheless (even though that the ס"ת is written בו לכל מה שצריך לעשות [even for a גט]), **the כריתות of a ס"ת is not כשר to divorce with it, as we explained previously –**

תוספות offers an alternate solution:[14]

אי נמי יש לומר[15] דמכל מקום שייך למתני יתר מיכן -

Or you may **also** say **that notwithstanding** (the גמרא in עירובין)[16] **it is correct to say 'יתר מיכן' in the משנה -**

כיון שיש סברא אחת[17] בסופרים מקרין לפסול טפי מבנמלך -

Since there is one logical reason to be פוסל by סופרים מקרין, more than by the second case **where he changed his mind** and another wishes to use his גט.

תוספות asks

ואם תאמר בהכותב טופסי גיטין[18] הוי ליה נמי למיתני יתר על כן[19] -

And if you will say regarding the משנה of '**one who writes the texts of גיטין', the משנה should have also stated יתר על כן,** for there is a greater חידוש there than in all the previous cases; תוספות explains his question -

דהא מכל הני לא מצי למידק בריש זבחים (דף ב,ב) דסתמא פסול[20] דלאו לשמה קאי -

Since that from all these cases in our משנה, **the** גמרא **in the beginning of** מסכת **זבחים, was not able to infer that סתמא** by a גט **is פסול because it is not intended to be לשמה;** the גמרא was able to infer that סתמא פסול - -

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[12] Even though there is an opinion that one may use a ס"ת for the מגילת סוטה (see footnote # 9), nevertheless all agree that a ס"ת is פסול for a גט.

[13] בתוד"ה אי where 'תוס there distinguishes between מגילת סוטה where the כהן is not מקפיד and a גט where the בעל is מקפיד. עיי"ש.

[14] We do not need to differentiate between the levels of לשמה by a ס"ת versus סופרים מקרין.

[15] This א"נ disagrees with the first answer and maintains that the לשמה level of סופרים מקרין and ס"ת are equal.

[16] Notwithstanding what תוספות cited previously from מסכת עירובין (see footnote # 9).

[17] We can write יתן מיכן on the second case because there is a סברא to say that it is a greater חידוש. The fact that there is another סברא to say the opposite does not diminish the first סברא. The (משנה and the) גמרא is not stating explicitly that we can derive the first case from the second case (that can be done only if there is one סברא only, that the second rule is a greater חידוש than the first rule), but to merely say יתר מיכן, that there is a חידוש in the second case; we can do that even if there are conflicting סברות since according to one סברא there is a greater חידוש in the second case.

[18] See later כו,א. The משנה there states that the one writes the texts of גיטין should leave space to write the names of the man and the wife and the date. Otherwise the גט is פסול.

[19] This question seems to be (only) according to the א"נ that even though there is a חידוש in both cases, it is still appropriate to say יתר מיכן.

[20] The גמרא there assumes that a גט which is written סתם; meaning with no specific intent at all for a specific person, it is פסול. The גמרא tried and failed to infer this from the various משניות in our הלכות except from the case of הכותב טופסי גיטין.

אלא מההיא דהכותב טופסי גיטין לחודא[21] -

Only from that משנה of הכותב טופסי גיטין, alone. The question is since that משנה is a חידוש over our משנה it should have started יתר על כן –

תוספות answers:

ויש לומר דההיא בבא דטופסי גיטין לא תנא כלל לאשמועינן דסתמא פסול -

And one can say that the section of טופסי גיטין הכותב **was not taught at all to inform us that סתמא is פסול;** this was not the intent of that תנא -

אלא אשמועינן דשרו רבנן לסופר לכתוב הטופס מפני[22] התקנה:

Rather the משנה **is informing us that the רבנן permitted the scribe to write the טופס because of an ordinance**.

Summary

The יתר מיכן can be understood that the first case can be derived from the second case (since the שלא לשמה of סופרים מקרין is much greater than by a ס"ת), or as long as there is some חידוש in the second case we can say יתר מיכן (even though there may also be a חידוש in the first case over the second). The משנה of הכותב טופסי גיטין was written (only) to teach us a leniency.

Thinking it over

According to (the first answer of) תוס' that סופרים מקרין is less לשמה than ס"ת, why did not the משנה (in its successive statements of יתר מיכן) also list יתר מיכן by a ס"ת?![23]

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[21] The משנה states that the סופר must leave blank the spaces for the names and the time (as well as הרי את מותרת לכל אדם), otherwise it is פסול even though it is written לשם גירושין, but since it is written סתמא it is פסול.

[22] The גמרא there explains that the משנה is according to ר"א who requires כתיבה לשמה, so really the entire גט (including the טופס) should not be written unless the בעל requests it, but in order to assist the סופרים, the חכמים permitted them to write (just) the טופס, so they will have it ready when the need arises, and will not have to write out the entire גט. עיי"ש.

[23] See מהרש"א הארוך.